IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 85 of 2005

Between:

M/s.Gaurav Pakaging Industries a proprietary concern situated at

Plot No.45 CIEP, rep Prop Shri Vijay Kumar Gupta, S/o. Sri Ram Kumar Gupta Flat No.501, 5Th Floor Sriman Niranthar Complex,
Street No. 6, Himayatnagar, Hyderabad.

..... PETITIONER

AND

1. Deputy Commissioner of Commercial Taxes

(Sec'bad Division), 4th Floor, Mayur Kushal Complex,

Abids, Hyderabad.

2. Commercial Tax Officer Ashok Nagar Circle,
Secunderabad Division, 5th Floor,

Mayur Kushal Complex, Abids, Hyderabad.

3. Deputy Commercial Tax Officer Ashok Nagar Circle,
Secunderabad Division, 5th Floor,

Mayur Kushal Complex, Abids, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or orders more particularly one in the nature of writ of mandamus, directing the 1st respondent to re-consider my representation filed for installments on 23-08-2004, which is taken on file in proceeding No.B3/3014/2004, and to grant 25 equal installments, commencing from the month of January, 2005 and consequently to declare the action of the 1st respondent in so far as issuing impugned proceedings dated 30-12-2004; action of the 2nd and 3rd respondents in harassing me by frequent notices including Form-I notice under A.P. Revenue Recovery Act, as amounting to highly arbitrary illegal and unconstitutional.

Counsel for the Petitioner: MR.GOPALA KRISHNA KALANIDHI

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following at the stage of admission :

WRIT PETITION NO.85 OF 2005

O R D E R

(Per Sri Justice M.H.S.Ansari)

The grievance of the petitioner is with respect to the denial of 25 instalments for payment of the tax arrears, which are not in dispute. Petitioner is due, amounts under the APGST and CST Acts for the years 1997-98 to 2003-2004. According to the petitioner's own showing, a sum of Rs.4,66,639/- is due towards APGST and Rs.3,03,362/- is due towards CST. Thus in all, a total sum of Rs.7,70,000/- is due towards the tax arrears. Petitioner made an application on 23.08.2004 before the learned Deputy Commissioner (CT) to allow him to clear the said dues in twenty five equal monthly instalments commencing from 25th September, 2004. It is stated in the said application that the Department was proposing to effect recovery by resort to Section 17 notice. By the impugned order dated 30.12.2004, the learned Deputy Commissioner granted three instalments, each of a sum of Rs.2,13,820/- subject to the conditions specified therein.

Before us, it was contended that in respect of other dealers indulgence has been shown in making payment by the instalments, whereas the petitioner has been discriminated against, by granting lesser number of instalments.

No doubt, power is conferred upon the tax authorities to effect recovery by granting

instalments and collecting interest for delayed payments. In the case on hand, power has been exercised by the learned Deputy Commissioner in granting instalments. The dispute is only with regard to the number of instalments granted.

We are of the view that being a discretionary order, keeping in view the quantum involved and also keeping in view that most of the amounts pertain to CST, whereas the contention before us was that amounts are due from certain customers within the State, it cannot be said that discretion has been exercised either illegally or improperly. We therefore, find no ground to entertain the instant writ petition and accordingly dismiss the same at admission stage. No order as to costs.

JUSTICE M.H.S.ANSARI

JUSTICE T.CH.SURYA RAO

27th January, 2005

PGS

To

1. Deputy Commissioner of Commercial Taxes

(Sec'bad Division), 4th Floor, Mayur Kushal Complex,

Abids, Hyderabad.

2. Commercial Tax Officer Ashok Nagar Circle,
Secunderabad Division, 5th Floor,

Mayur Kushal Complex, Abids, Hyderabad.

3. Deputy Commercial Tax Officer Ashok Nagar Circle,
Secunderabad Division, 5th Floor,

Mayur Kushal Complex, Abids, Hyderabad.

4. 2 CCs to G.P. for Commercial Taxes, High Court Buildings,

Hyderabad (OUT).

5. 2 CD copies.

THE HONOURABLE SRI JUSTICE

M.H.S.ANSARI

AND

THE HONOURABLE SRI JUSTICE

T.CH.SURYA RAO

WRIT PETITION NO.85 OF 2005

(Per Sri Justice M.H.S.Ansari)

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27th January, 2005